Chippewa Ottawa Resource Authority

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29 May, 2002

175448

Docket Management Facility
U.S. Department of Transportation
Room PL-401, 400 Seventh Street SW
Washington D.C., 20590-001

USCG-01-10486-31

Re: USCG-2001-10486 Standards for Living Organisms in Ship's Ballast Water Discharged in U.S. Waters.

To whom it may concern:

On behalf of the Chippewa Ottawa Resource Authority (CORA), I am writing to comment on the U.S. Coast Guard's effort to develop a ballast water treatment goal and interim ballast water treatment standard. The issue of aquatic nuisance species is one of the most important environmental priorities for CORA because the livelihoods of so many tribal members are at risk due to ANS proliferation.

CORA represents five tribes in Michigan with regard to the tribes' commercial and subsistence fisheries in the 1836 treaty-ceded waters of Lakes Huron, Michigan and Superior. The tribes which are party to the 1836 Treaty are the Bay Mills Indian Community, Grand Traverse Band of Ottawa and Chippewa Indians, Little River Band of Ottawa Indians, Little Traverse Bay Bands of Odawa Indians and Sault Ste. Marie Tribe of Chippewa Indians. In August 2000, the CORA tribes entered into a historic and comprehensive Consent Decree with the State of Michigan and the U.S. government that will manage and regulate the fisheries of the 1836 treaty ceded waters for the next 20 years.

CORA understands that the Coast Guard is obligated to determine methods for preventing the transmission of biota via ballast water which are, as specified by NANPCA and NISA, "at least as effective as BWE". However, as stated in the docket, the intention of Congress was the elimination of ballast water discharge as a source of harmful ANS. As all evidence points toward BWE as being, in itself, ineffectual as a means of preventing the transmission of ANS, CORA is most supportive of those goals and standards that do not use BWE as a benchmark or comparison.

Specifically, CORA will comment on the questions posed in the docket according to the protocol specified therein:

Q1. Should the Coast Guard adopt G1, G2, G3, or some other goal for BWT?

CORA is in favor of goals G1 and G2 or a combination of these two goals. It is understood that G1 implicitly includes treatment to remove larger particles with the goal of removing infectious bacteria to levels specified in health laws for other types of effluent. This goal would probably meet the intent of elimination of ballast water discharge as a source of harmful ANS. Advantages of treating ballast water to the same extent as drinking water would be the precedence of well-established technologies and monitoring methods which might make compliance enforcement easier. It is understandable that this goal may be politically unpalatable and perhaps unnecessary as the final effluent is not intended for human consumption. A combination of the two goals may be to specify the methods for drinking water purification with the standards for effluent under the Clean Water Act.

CORA is not in favor of goal G3 which uses BWE as the standard. Again, it is our view that BWE is ineffectual at preventing the introduction of ANS and should not be used as a benchmark.

Q2. Should the Coast Guard adopt any of the standards, S1-S4 as an interim BWT?

CORA recognizes that an interim standard should be flexible enough to allow current technologies while at the same time be protective enough to prevent the introduction of ANS. This flexibility may necessarily include the option of environmentally benign biocides. Standard S1 appears to allow the greatest flexibility while providing protection to prevent additional introductions.

Q3. Provide information on the effectiveness of current technologies to meet any of the possible standards.

Evaluation of technologies is, for the most part, probably outside the expertise for most fishery and environmental managers. However there is one option that has been pointed out and tested, in particular by the State of Michigan. Following the introduction of state legislation that would have made it mandatory that ships "sterilize" ballast water before discharge, the State of Michigan tested several biocides including chlorine. Their findings indicated that large amounts of chlorine are currently being used by many municipalities to control zebra mussels at water intakes in the Great Lakes. They also indicated that sodium hypochlorite could be used in ships today with little retrofitting.

Use of moderate amounts of sodium hypochlorite could be an interim measure to reach the standards listed above.

Q4. General comments on how to structure any cost-benefit or cost-effectiveness analysis that evaluates the above four standards.

CORA is not in favor of using a cost-benefit method to evaluate cost to industry versus predicted environmental costs. There is no way to predict the costs of the next species (e.g. zebra mussels) nor is there any way to predict the cost of a permanent change to the Great Lakes ecosystem. For the past 14 years, it has been the tax payers of the United States and Canada who have borne the burden of billions of dollars in expenditures due to ANS carried by ships into the Great Lakes. We believe that the costs to federal, state, provincial and municipal governments to control or otherwise address with ANS that have already invaded the Great Lakes basin vastly overwhelms any economic benefits derived from those business activities that allowed for the release of ANS. Additional invasions would only tip the cost-benefit scale further toward the cost side. Other industries in the Great Lakes have suffered due to zebra mussel infestations including the Native American tribal members struggling to make a living by fishing. The loss of that fishery due to the calculated allowance of new ANS introductions would be a tragedy, not only economically but for the culture of a people, beyond reckoning. Furthermore, since the ecological and economic damages of ANS are so vast and well-documented, future damages caused by inaction would place the burden of responsibility directly upon those agencies responsible for prevention.

Q5. What impact would the above four standards have on small businesses that own and operate vessels?

We are not aware of small American businesses doing overseas transport and carrying significant amounts of ballast water from overseas ports. However, there are many businesses that own and operate tourism and fishing vessels in the Great Lakes that have been adversely affected by ANS transported to the Great Lakes in ballast water. CORA is also concerned that the above rules be targeted specifically to ships which might bring ANS from outside the Great Lakes system. The USCG should consider exempting those ships which never leave the Great Lakes system.

Q6. What potential environmental impacts would the goals or standards carry?

The affects of biocides to water quality would be the primary concern. CORA is opposed to any biocides that are persistent, bioaccumulative or toxic outside of the ballast water application. The effects of chlorine discharge should be mitigated by best management practices and subject to the same buffering and other procedures to which waste water treatment plants around the Great Lakes are subject.

CORA appreciates the opportunity to comment on this subject which is so important to the continued existence of Native American subsistence and commercial fisheries in the Great Lakes. If you have any questions, please do not hesitate to contact me at (906) 632-0072 or via email <mripley@northernway.net>.

Sincerely,

Michael P. Ripley
Environmental Coordinator
Inter-Tribal Fisheries and Assessment Program
Chippewa Ottawa Resource Authority

cc: Jeff Parker, Chippewa Ottawa Resource Authority
Bay Mills Indian Community
Grand Traverse Band of Ottawa and Chippewa Indians
Little River Band of Ottawa Indians
Little Traverse Bay Bands of Odawa Indians
Sault Ste. Marie Tribe of Chippewa Indians
Great Lakes Indian Fish and Wildlife Commission
Great Lakes Fishery Commission
Michigan Office of the Great Lakes

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